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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,548	12/29/2000	Min Zhu	M-8856 US	7423
34313 7590 03/21/2007 ORRICK, HERRINGTON & SUTCLIFFE, LLP IP PROSECUTION DEPARTMENT 4 PARK PLAZA SUITE 1600 IRVINE, CA 92614-2558			EXAMINER STRANGE, AARON N	
			ART UNIT 2153	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/21/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

09/751,548

**Applicant(s)**

ZHU ET AL.

**Examiner**

Aaron Strange

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 19-25 and 27-31 have been considered but are moot in view of the new ground(s) of rejection.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 19-25 and 27-31 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 7,130,883 in view of Salesky et al. (US 6,343,313).

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4. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the applications recite claims for a collaborative system comprising a web zone, meeting zone, meeting manager, collaboration server, and application server. The only differences between the claims are directed toward load balancing client requests, which is known in the art as evidenced by Salesky.

Salesky discloses a computer conferencing system and teaches load balancing of client requests across existing or newly added servers (at least Col 26, Lines 7-14 and Col 32, Lines 6-38). This would have been an advantageous addition since it would have provided scalability to the conference, allowing the experience of the users to remain substantially the same, even as the number of participants increased.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to load balance the client requests when necessary to maintain a quality of service for the users of the system.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quantrano et al. (US 6,748,420) in view of Salesky et al. (US 6,343,313).

7. With regard to claims 19 and 27-30, Quantrano discloses a scalable system for collaborative computing, comprising:

a web zone for allowing a plurality of client computers to access the scalable system via a global-area network, the web zone having at least one web server (Fig 3, Abstract);

a meeting zone for supporting an on-line conference among the plurality of client computers, the meeting zone having a meeting manager, a plurality of collaborative servers, and a plurality of application servers (Figs. 3,8,9 and Col 18, Lines 7-15 and Col 29, Line 66 to Col 30, Line 47), wherein:

the meeting manager is operable to manage the on-line conference in the meeting zone (Col 18, Lines 7-15 and Col 29, Line 66 to Col 30, Line 47);

each collaborative server is operable to host at least a portion of the on-line conference (Fig 8 and Col 29, Line 66 to Col 30, Line 20); and

each application server is operable to support at least one service for the on-line conference (Fig 9 and Col 30, lines 22-35);

wherein the meeting manager is operable to receive a request to join the on-line conference from a client computer, and to select at least one of the collaborative servers and the application servers based on respective processing loads of the collaborative servers and the application servers (Col 29, Line 66 to Col 30, line 20).

Quantrano fails to specifically disclose a process manager operable to launch the collaborative servers or that the meeting manager requests that the process manager launch a new server when it is needed to maintain a quality of service.

Salesky discloses a similar system for computer conferencing and teaches providing a process manager that may be directed to launch a new server to maintain a quality of service (server managers determine that a new server is needed and it is created)(at least Col 26, Lines 7-14 and Col 32, Lines 6-38, esp 31-38). This would have been an advantageous addition to the system disclosed by Quantrano since it would have provided scalability to the conference, allowing the experience of the users to remain substantially the same, even as the number of participants increased.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to launch additional servers when necessary to maintain a quality of service for the users of the system. This would have ensured that the user experience remained the same regardless of the total number of system users.

8. With regard to claim 20, Quantrano further discloses that each collaborative server and each application server comprises a respective logical server (Fig 9 and Col 30, Lines 22-35).

9. With regard to claim 21, Quantrano further discloses that the meeting zone comprises a process manager for monitoring each logical server (Fig 9 and Col 30, Lines 22-35).

10. With regard to claim 22, Quantrano further discloses that the meeting zone comprises a zone manager for supporting communication among the logical servers (Col 18, Lines 7-15).

11. With regard to claims 23 and 31, Quantrano further discloses that the meeting manager is operable to maintain status information for the meeting zone (Col 16, Lines 8-31).

12. With regard to claim 24, Quantrano further discloses that the at least one service for the on-line conference comprises one of document viewing, file sharing, video, voice over IP, telephony, polling, chat, and application sharing (application sharing)(Abstract).

13. With regard to claim 25, Quantrano further discloses that the meeting manager is operable to manage all of the collaborative servers and the application servers in the meeting zone (Figs 8,9 and Col 29, Line 66 to Col 30, Line 47).

14. With regard to claims 26 and 32, Salesky further discloses determining whether a predetermined number of authorized conference participants has been exceeded (at least Col 32, Lines 6-38).

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15. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quantrano et al. (US 6,748,420) in view of Salesky et al. (US 6,343,313) in further view of Albert et al. (US 6,970,913).

16. With regard to claim 33, while the system disclosed by Quantrano and Salesky shows substantial features of the claimed invention (discussed above), it fails to specifically disclose that each of the collaborative servers is operable to send a traffic capacity of the respective collaborative server to the meeting manager.

Albert discloses a system for load balancing client connections and teaches that each server may provide feedback to a manager computer informing them of the current capacity of the server to handle additional connections (at least Col 29, Line 49 to Col 30, Line 13). This would have been an advantageous addition to the system disclosed by Quantrano and Salesky since it would have provided the meeting manager with real time capacity information, allowing the loads to be better balanced across the servers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide real time feedback from the servers regarding capacity information to improve the load balancing and performance of the system.

### ***Conclusion***

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS  
3/13/07



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